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6 *Attorneys for Plaintiff Nationstar Mortgage, LLC*
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9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 NATIONSTAR MORTGAGE, LLC, a Limited
12 Liability Company,

13 Plaintiff,

14 v.

15 SFR INVESTMENTS POOL 1, LLC, a Limited
16 Liability Company,

17 Defendant.
18

19 SFR INVESTMENTS POOL 1, LLC, a Limited
Liability Company,

20 Counterclaimant,

21 v.

22 NATIONSTAR MORTGAGE, LLC, a Limited
23 Liability Company,

24 Counter-Defendant.
25

26 Following pretrial proceedings in this case,

27 IT IS ORDERED:
28

Case No.: 2:15-cv-00583-RCJ-PAL

JOINT PRETRIAL ORDER

I.**Nature of the action:**

This is a quiet title matter. Plaintiff, Nationstar Mortgage, LLC (**Nationstar**), seeks a declaration that Defendant, SFR Investments Pool 1, LLC (**SFR**), bought real property located at 820 Peachy Canyon Circle, #104, Las Vegas, NV 89144 (**the Property**) at a homeowners association foreclosure sale subject to Nationstar's first priority deed of trust.

In contrast, SFR, through its counter-claims, seeks a declaration that the NRS 116 sale in this case extinguished the first deed of trust recorded against the Property and that title in the name of SFR should be quieted.

II.**Statement of jurisdiction:****Nationstar's contention:**

This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1332. The diversity of citizenship requirement is met. Nationstar is a Delaware limited liability company. Nationstar's members are Nationstar Sub1, LLC and Nationstar Sub2, LLC. Nationstar Sub1, LLC and Nationstar Sub2, LLC are both wholly-owned subsidiaries of Nationstar Mortgage Holdings, Inc. Nationstar Mortgage Holdings, Inc. is a Delaware corporation, with a principal place of business in Texas. Accordingly, Nationstar is a citizen of Delaware and Texas for purposes of diversity jurisdiction. *See* 28 U.S.C. § 1332; *Johnson v. Columbia Props. Anchorage LP*, 437 F.3d 894, 899 (9th Cir. 2006) (a limited liability company "is a citizen of every state of which its owners/members are citizens"). SFR is a Nevada limited liability company. No member of SFR is citizen of Texas or Delaware. The amount in controversy requirement is also met. Upon information and belief, SFR asserts that it owns the property free and clear of Nationstar's senior deed of trust, which has an original unpaid balance of \$210,123.

SFR's contention:

SFR believes subject matter jurisdiction pursuant to 28 U.S.C. §1332 may not exist. Specifically, SFR is wholly owned by SFR Investments, LLC. SFR Investments, LLC is wholly owned by SFR Funding, LLC. SFR Funding, LLC is a Delaware LLC. SFR Funding, LLC is wholly

owned by Xiemen Limited Partnership, a Canadian partnership. The partners comprising Xiemen Limited Partnership are Xiemen Investments, Ltd. and John Gibson. Xiemen Investments, Ltd. is a Canadian corporation and John Gibson is a citizen of South Africa. Given this, and in light of *Johnson v. Columbia Props. Anchorage LP*, 437 F.3d 894, 899 (9th Cir. 2006), it would appear that SFR is citizen of Nevada, Delaware, Canada, and South Africa.

III.

The following facts are admitted by the parties and require no proof:

1. Nevada adopted Uniform Common Interest Ownership Act as NRS 116, including NRS 116.3116(2), in 1991.
2. John Ring (**Ring**) purchased the property located at 820 Peachy Canyon Circle, #104, Las Vegas, NV 89144 (**the Property**) in 2009.
3. Ring financed his purchase with a home loan with a principal balance of \$210,123, which was secured by a deed of trust recorded on July 20, 2009.
4. The Property is located within Dakota Condominiums HOA (**HOA**).
5. Nevada Association Services, Inc. (**NAS**) recorded a notice of delinquent assessment lien on March 8, 2010.
6. NAS released this lien in May 2010.
7. NAS then recorded a notice of delinquent assessment lien on August 16, 2010.
8. NAS then recorded a notice of default and election to sell on October 5, 2010.
9. NAS then recorded a notice of foreclosure sale on March 7, 2011.
10. NAS then recorded a second notice of foreclosure sale on July 12, 2012.
11. The Association foreclosure sale took place on August 10, 2012.
12. The highest bid was \$9,200.00.
13. SFR was the successful highest bidder at the August 10, 2012 foreclosure sale.
14. The Foreclosure Deed was recorded on September 7, 2012.

IV.

The following facts, though not admitted, will not be contested as trial by evidence to the contrary:

1. None.

V.

The following are the issues of fact to be tried and determined at trial. (Each issue of fact must be stated separately and in specific terms.)

1. Whether the CC&Rs were recorded prior to the deed of trust.
2. Whether the foreclosure sale price was grossly inadequate.
3. Whether the foreclosure sale was commercially reasonable.
4. Whether there was constitutionally sufficient notice of the foreclosure sale.
5. Whether the deed of trust was FHA-insured at the time of the foreclosure sale.

VI.

The following are the issues of law to be tried and determined at trial. (Each issue of law must be stated separately and in specific terms.)

Nationstar's statement of the issues:

1. Whether the HOA foreclosure sale should be set aside as commercially unreasonable.
2. Whether the HOA foreclosure sale should be set aside under the court's equitable powers.
3. Whether the HOA foreclosure sale of the FHA-insured deed of trust violates the Supremacy Clause of the United States Constitution.
4. Whether the provided notices satisfy the Due Process Clause of the Fifth Amendment.
5. Whether the HOA sale should be set aside due to procedural or substantive irregularities in the sale.
6. Whether the HOA sale was properly conducted pursuant to NRS Chapter 116.

SFR's statement of the issues:

1. Whether the Association foreclosure sale vested title in SFR without equity or right of redemption?

2. Whether the method, manner, time, place and terms of the sale were commercially unreasonable under *Levers v. Rio King Land & Inv. Co.*, 560 P.2d 917 (Nev. 1977).

3. Whether the notices satisfied the Due Process Clause of the Fifth Amendment.

4. Whether Nationstar has standing to raise any claims, including, any claims under the Supremacy Clause.

VII.

(a) The following exhibits are stipulated into evidence in this case and may be so marked by the Clerk:

<i>Tab</i>	<i>Bates Number</i>	<i>Document Disclosed by:</i>	<i>Title of Document</i>	<i>Objection</i>
1.	NSM000001	Nationstar Mortgage	Grant, Bargain, Sale Deed for APN: 138-30-317-010	
2.	NSM000002	Nationstar Mortgage	State of Nevada Declaration of Value APN: 138-30-317-016	
3.	NSM000003- NSM000004	Nationstar Mortgage	Quitclaim Deed	
4.	NSM000005	Nationstar Mortgage	State of Nevada Declaration of Value APN: 138-30-317-016	
5.	NSM000006- NSM000007	Nationstar Mortgage	Grant, Bargain, Sale Deed for APN: 138-30-317-010	
6.	NSM000008- NSM000020	Nationstar Mortgage	Deed of Trust for APN: 138-30-317-010	
7.	NSM000022- NSM000023	Nationstar Mortgage	Condominium Rider	
8.	NSM000024- NSM000025	Nationstar Mortgage	Substitution of Trustee and Deed of Reconveyance for #138-30-317-010	
9.	NSM000026- NSM000038	Nationstar Mortgage	Deed of Trust for APN: 138-30-317-010	
10.	NSM000039- NSM000041	Nationstar Mortgage	Request for Notice	
11.	NSM000042- NSM000043	Nationstar Mortgage	Substitution of Trustee and Deed of Reconveyance	
12.	NSM000044- NSM000054	Nationstar Mortgage	Deed of Trust for APN: 138-30-317-010	
13.	NSM000055- NSM000057	Nationstar Mortgage	Request for Notice	
14.	NSM000058- NSM000059	Nationstar Mortgage	Substitution of Trustee and Deed of Reconveyance for APN: 138-30-317-010	
	NSM000060-	Nationstar	Deed of Trust for APN: 138-30-317-010	

15.	NSM000069	Mortgage		
16.	NSM000070- NSM000072	Nationstar Mortgage	Request for Notice for APN: 138-30-317-010	
17.	NSM000073	Nationstar Mortgage	Release of Lien Created by Final Assessment Roll	
18.	NSM000074- NSM000075	Nationstar Mortgage	Grant, Bargain, Sale Deed	
19.	NSM000076	Nationstar Mortgage	State of Nevada Declaration of Value for APN: 138-30-317-010	
20.	NSM000077- NSM000078	Nationstar Mortgage	Quitclaim Deed for APN: 138-30-317-010	
21.	NSM000079	Nationstar Mortgage	State of Nevada Declaration of Value for APN: 138-30-317-010	
22.	NSM000080- NSM000089	Nationstar Mortgage	Deed of Trust for APN: 138-30-317-010	
23.	NSM000090- NSM000091	Nationstar Mortgage	Condominium Rider	
24.	NSM000092- NSM000095	Nationstar Mortgage	Substitution of Trustee and Deed of Reconveyance for APN: 138-30-317-010	
25.	NSM000096	Nationstar Mortgage	Notice of Delinquent Assessment Lien for APN: 138-30-317-010	
26.	NSM000097	Nationstar Mortgage	Release of Notice of Delinquent Assessment Lien for APN: 138-30-317-010	
27.	NSM000098	Nationstar Mortgage	Notice of Delinquent Assessment Lien for APN: 138-30-317-010	
28.	NSM000099- NSM000100	Nationstar Mortgage	Notice of Default and Election to Sell Under Homeowners Association Lien for APN: 138-30-317-010	
29.	NSM000101- NSM000102	Nationstar Mortgage	Notice of Delinquent Assessment Lien for APN: 138-30-317-010	
30.	NSM000103- NSM000106	Nationstar Mortgage	Notice of Foreclosure Sale for APN: 138-30-317- 010	
31.	NSM000107- NSM000108	Nationstar Mortgage	Foreclosure Deed for APN: 138-30-317-010	
32.	NSM000109	Nationstar Mortgage	State of Nevada Declaration of Value for APN: 138-30-317-010	
33.	NSM000110-	Nationstar Mortgage	Notice of Lien for APN: 138-30-317-010	
34.	NSM000111- NSM000112	Nationstar Mortgage	Corporate Assignment of Deed of Trust for APN: 138-30-317-010	
35.	NSM000113- NSM000114	Nationstar Mortgage	Substitution of Trustee for APN: 138-30-317-010	
36.	NSM000115- NSM000117	Nationstar Mortgage	Notice of Default and Election to Sell Under Deed of Trust for APN: 138-30-317-010	
37.	NSM000118- NSM000121	Nationstar Mortgage	Affidavit of Authority to Exercise the Power of Sale for APN: 138-30-317-010	
38.	NSM000122	Nationstar Mortgage	Certificate: State of Nevada Foreclosure Mediation Program for APN: 138-30-317-010	
	NSM000123-	Nationstar	Notice of Trustee's Sale	

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39.	NSM000125	Mortgage		
40.	NSM000126- NSM000128	Nationstar Mortgage	Notice of Lis Pendens for APN: 138-30-317-010	
41.	BLANK			
42.	NSM000132	Nationstar Mortgage	Affidavit of Custodian of Records for Nevada Association Services, Inc.	
43.	NSM000133- NSM000134	Nationstar Mortgage	Consent and Authorization	
44.	NSM000135	Nationstar Mortgage	Clark County Real Property Report	
45.	NSM000136- NSM000139	Nationstar Mortgage	Agreement and Authorization to Commence Non- Judicial Foreclosure Proceedings Declaration of Default & Demand for Sale	
46.	NSM000140	Nationstar Mortgage	Letter from NAS dated July 30, 2010	
47.	NSM000141	Nationstar Mortgage	List of Home owner's for 820 Peachy Canyon Circle #104, Las Vegas, NV 89144	
48.	NSM000142	Nationstar Mortgage	Transaction Report 8.2.2010	
49.	NSM000143- NSM000146	Nationstar Mortgage	Demand Letter and Assessment Totals	
50.	NSM000147- NSM000149	Nationstar Mortgage	Notice of Delinquent Assessment Lien	
51.	NSM000150- NSM000152	Nationstar Mortgage	Certified Mail Receipt of Notice of Lien	
52.	NSM000153- NSM000157	Nationstar Mortgage	Letter from NAS dated September 21, 2010 Notice of Delinquent Assessment Lien	
53.	NSM000158- NSM000173	Nationstar Mortgage	Notice(s) of Default and Election to Sell Under Homeowner's Association Lien	
54.	NSM000174- NSM000186	Nationstar Mortgage	Trustee Sale Guarantee	
55.	NSM000187- NSM000194	Nationstar Mortgage	Miles, Bauer Bergstrom & Winters, LLP letter dated November 8, 2010 and Foreclosure Totals	
56.	NSM000195- NSM000197	Nationstar Mortgage	Correspondence from NAS dated November 23, 2010 and assessment totals	
57.	NSM000198- NSM000198	Nationstar Mortgage	Correspondence from NAS dated January 17, 2011	
57.	NSM000199- NSM000201	Nationstar Mortgage	Authorization to Publish Non-Judicial Foreclosure Sale and Foreclosure Totals	
58.	NSM000202	Nationstar Mortgage	Endorsement	
59.	NSM000203- NSM000206	Nationstar Mortgage	Notice of Delinquent Assessment Lien	
60.	NSM000207- NSM000211	Nationstar Mortgage	Trustee's Instruction Memo	
61.	NSM000212- NSM000219	Nationstar Mortgage	Notice of Foreclosure Sale and Certified Mail Receipts	

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62.	NSM000220	Nationstar Mortgage	Invoice from NAS dated 3.11.2011	
63.	NSM000221- NSM000228	Nationstar Mortgage	Notice of Foreclosure Sale	
64.	NSM000229- NSM000230	Nationstar Mortgage	Certificate of Postponement	
65.	NSM000231- NSM000234	Nationstar Mortgage	Correspondence from NAS	
66.	NSM000235	Nationstar Mortgage	Authorization to Publish Non-Judicial Foreclosure Sale	
67.	NSM000236	Nationstar Mortgage	Endorsement	
68.	NSM000237- NSM000247	Nationstar Mortgage	Notice of Foreclosure Sale and Restrictive Covenant	
69.	NSM000248- NSM000252	Nationstar Mortgage	Trustee's Instruction Memo and Delinquency Totals	
70.	NSM000253- NSM000263	Nationstar Mortgage	Notice of Foreclosure Sale	
71.	NSM000264- NSM000267	Nationstar Mortgage	Affidavit(s) of Publication; Posting Notice of Trustee Sale and Service	
72.	NSM000268	Nationstar Mortgage	Letter from ICM dated August 3, 2012	
73.	NSM000269	Nationstar Mortgage	Endorsement	
74.	NSM000270- NSM000279	Nationstar Mortgage	Notice of Foreclosure Sale	
75.	NSM000280- NSM000281	Nationstar Mortgage	Receipt of Funds and Instructions and Copy of Cashier's Check #0194700781 dated August 10, 2012	
76.	NSM000282	Nationstar Mortgage	Certificate of Sale	
77.	NSM000283- NSM000285	Nationstar Mortgage	Foreclosure Deed	
78.	NSM000286-	Nationstar Mortgage	NAS Phone notes	
79.	NSM000287- NSM000288	Nationstar Mortgage	NAS Memorandum dated 8.15.2012	
80.	NSM000289- NSM000299	Nationstar Mortgage	Letter(s) from NAS dated August 15, 2012 and copies of check(s) dated 8.16.2012	
81.	NSM000300-	Nationstar Mortgage	NAS Disbursement Requisition dated 10.29.2012	

82.	NSM000301- NSM000302	Nationstar Mortgage	Letter from NAS dated 10.29.2012 and copies of cashier's check #258094	
83.	NSM000303- NSM000306	Nationstar Mortgage	List of Homeowner's from NAS 8.15.2012	
84.	SFR46-SFR48	SFR Investments	Notice of Lis Pendens	
85.	SFR52-SFR59	SFR Investments	U.S. Department of Housing and Urban Development letter dated May 31, 2013	
86.	Discovery		Nationstar Mortgage, LLC's Responses to SFR Investments Pool 1, LLC's Requests for Admissions	

(b) As to the following additional exhibits it is believed that the parties have reached the stipulations stated:

Not applicable

(c) As to the following exhibits, the party against whom the same will be offered objects to their admission upon the grounds stated:

Offered by Nationstar with SFR's objections:

<i>Tab</i>	<i>Bates Number</i>	<i>Document Disclosed by:</i>	<i>Title of Document</i>	<i>Objection</i>
	NSM000129- NSM000131	Nationstar Mortgage	Miles, Bauer, Bergstrom & Winters, LLP letter dated December 16, 2010 and copy of check dated December 15, 2010	Relevance; hearsay; lacks authentication; best evidence rule; lacks foundation
	DUGAN000001- DUGAN000024	Nationstar Mortgage	Short Form Summary Appraisal Report with Appraiser Certificate, Resume, CV, Prior Testimony, and Fee Schedule	Hearsay
	DUGAN000025- DUGAN000053	Nationstar Mortgage	Supplemental Expert Report	Hearsay
	Deposition Transcript	Nationstar Mortgage	Transcript of the Deposition taken of Robert Diamond (SFR employee/agent) in the Eighth Judicial District Court, State of Nevada, Case No. A-12-673671-C on May 25, 2016	Not disclosed during the course of discovery

Offered by SFR with Nationstar's objections:

<i>Tab</i>	<i>Bates Number</i>	<i>Document Disclosed by:</i>	<i>Title of Document</i>	<i>Objection</i>
	Deposition Transcript	SFR Investments	Transcript of the Deposition taken of R. Scott Dugan in the Eighth Judicial District	Hearsay; relevance

			Court, State of Nevada, Case No. A-14-698102-C on July 2, 2015	
	Deposition Transcript	<i>SFR Investments</i>	Transcript of the Deposition taken of R. Scott Dugan in the Eighth Judicial District Court, State of Nevada, Case No. A-14-698511-C on June 1, 2015	Hearsay; relevance
	Deposition Transcript	<i>SFR Investments</i>	Transcript of the Deposition taken of R. Scott Dugan in the Eighth Judicial District Court, State of Nevada, Case No. A-14-694435-C on June 1, 2015	Hearsay; relevance
	Deposition Transcript	<i>SFR Investments</i>	Transcript of the Deposition taken of R. Scott Dugan in the Eighth Judicial District Court, State of Nevada, Case No. A-14-698568-C on June 16, 2015	Hearsay; relevance
	Discovery		SFR Investments Pool 1, LLC's Requests for Production of Documents to Nationstar Mortgage, LLC	Hearsay; relevance
	Discovery		SFR Investments Pool 1, LLC's Interrogatories to Nationstar Mortgage, LLC	Hearsay; relevance

VIII.

Electronic evidence:

The parties have no intention to present electronic evidence for purposes of jury deliberation.

IX.

Depositions:

(1) Nationstar will offer the following depositions:

a. None.

(2) SFR will offer the following depositions:

a. 30(b)(6) Witness for Nationstar Mortgage, taken November 24, 2015: 3:11-21; 7:18-25; 8:7-16; 10:18-25; 11:1; 12:9-15; 13:8-17; 14:13-25; 15:1-18; 18:3-19; 24:13-15; 25:6-14; 26:3-6; 35:18-25; 36:1, 8-14, 24-25; 37:1-13, 19-23; 40:17-25; 41:1,7-10; 44:15-25; 47:11-22.

Objections to Depositions:

(1) Nationstar objects to SFR's deposition designations as follows:

Nationstar anticipates calling its Rule 30(b)(6) witness at trial, rendering SFR's designations superfluous. In addition, Nationstar objects to the following designation: 47:11-22 (objections noted in the transcript).

X.

Witnesses:

(a) State the names and addresses of Nationstar's witnesses:

1. Corporate Representative and/or Employees for Bank of America, N.A.
c/o Ariel Stern, Esq.
AKERMAN LLP
1160 Town Center Drive, Suite 330
Las Vegas, Nevada 89144
Telephone: (702) 634-5000
2. Corporate Representative and/or Employees for Nevada Association Services, Inc.
c/o David Stone
6224 W. Desert Inn Road
Las Vegas, Nevada 89146
3. Corporate Representative and/or Employees for Dakota Condominiums Association
c/o Ideal Community Management, Inc.
6767 W. Tropicana Ave, Suite 200
Las Vegas, Nevada 89103
4. Corporate Representative and/or Employees for SFR Investments Pool 1, LLC
c/o Diana Cline, Esq.
Howard Kim & Associates
1055 Whitney Ranch Drive, Suite 110
Henderson, NV 89014
5. Corporate Representative and/or Employees for Miles, Bauer, Bergstrom & Winters, LLP
2200 Paseo Verde Pkwy., Suite 250
Henderson, NV 89052
6. Rock Jung, Esq.
7785 W Sahara Ave, Suite 200
Las Vegas, NV 89117
7. Corporate Representative and/or Employees for Nationstar Mortgage, LLC
c/o Ariel Stern, Esq.
AKERMAN LLP
1160 Town Center Drive, Suite 330
Las Vegas, Nevada 89144
8. Accurity Qualified Analytics
2470 Gray Falls Drive, Suite 190
Houston, TX 77077-6598
By: R. Scott Dugan
R. Scott Dugan Appraisal Company, Inc.
8930 West Tropicana Avenue, Suite 1
Las Vegas, NV 89147

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9. Robert Diamond¹
3075 Paseo Mountain Avenue
Henderson, Nevada 89052
10. Christopher Yergensen, Esq. from Nevada Association Services, Inc.
6224 W. Desert Inn Road, Suite A
Las Vegas, NV 89146
11. David Stone from Nevada Association Services, Inc.
6224 W. Desert Inn Road, Suite A
Las Vegas, NV 89146
- (b) State the names and addresses of SFR's witnesses:
 1. 30(b)(6) Witness for SFR Investments Pool, 1, LLC
c/o Diana S. Cline, Esq.
Howard Kim & Associates
1055 Whitney Ranch Dr., Suite 110
Henderson, Nevada 89014
 2. 30(b)(6) Witness for Dakota Condominiums Association
c/o Ideal Community Management, Inc.
6767 W. Tropicana Ave, Suite 200
Las Vegas, Nevada 89103
 3. 30(b)(6) Witness for Nevada Association Services, Inc.
c/o David Stone
6224 W. Desert Inn Rd.
Las Vegas, Nevada 89146
 4. Michael L. Brunson, MNAA
Brunson Jiu, LLC
10161 Park Run Drive, #150
Las Vegas, NV 89145

XI.**Motions in Limine:**

To date, neither party has filed any motions in limine.

XII.**Trial Dates:**

The attorneys or parties have met and jointly offer these trial dates: October 10–14; October 24–28 and November 14–18.

¹ SFR objects to this witness as this witness was never disclosed by Nationstar during the course of discovery.

XIII.

Trial Length:

It is estimated that the trial will take a total of 4-5 days.

APPROVED TO AS TO FORM AND CONTENT:

KIM GILBERT EBRON

/s/ Karen L. Hanks

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/s/ William S. Habdas

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Las Vegas, Nevada 89144
Attorneys for Nationstar Mortgage LLC

*Attorneys for SFR Investments
Pool 1, LLC*

XIV.

Action By the Court:

This case is set for court/jury trial on the fixed/stacked calendar on _____.

Calendar call will be held on _____.

This pretrial order has been approved by the parties to this action as evidenced by their signatures or the signatures of their attorneys hereon, and the order is hereby entered and will govern the trial of this case. This order may not be amended except by court order and based upon the parties' agreement or to prevent manifest injustice.

DATED: _____.

UNITED STATES DISTRICT JUDGE